

## MAINE FAMILY LAW ADVISORY COMMISSION

### Report to 132<sup>nd</sup> Maine Legislature Joint Standing Committee on Judiciary On LD 2142

### **“An Act to Establish Guidance for Awarding General Spousal Support”**

#### Introduction

The Maine Family Law Advisory Commission (“FLAC” or the “Commission) hereby reports to the Maine Legislature, Joint Standing Committee on Judiciary, on LD 2142 “An Act to Establish Guidance for Awarding General Spousal Support.” Pursuant to 19-A MRS § 354(2), and in furtherance of its statutory mandate to examine, evaluate, and recommend to the Maine Legislature changes in family law that it considers advisable, FLAC proposes this legislation to change how spousal support awards are determined by Maine courts. The goals of the suggested changes to the spousal support are to: (1) increase predictability for litigants in the award of spousal support; (2) make the statute easier to use by all; and (3) decrease pre- and post-judgment litigation on spousal support issues. A Minority Report follows this report of the majority of FLAC.

#### Background

The determination of whether spousal support is awarded, and the amount of spousal support ordered, have been the subject of much discussion, debate, and consideration within the legal community and by FLAC over the last six years. National conversations about spousal support, sometimes called alimony, have introduced numerous concepts and theories to make the decision-making process more predictable and fairer for parties in divorce.

FLAC’s most recent consideration of changes in the spousal support statute commenced in February, 2019 when it convened a subcommittee to study Maine’s spousal support law and recommend changes, if any, as appropriate. Over 20 family law attorneys, Family Law Magistrates, and District Court Judges comprised the original subcommittee. These members represented a wide spectrum of interests, including but not limited to, the judiciary, legal services, small and large law firms, and domestic violence intervention services. This subcommittee evaluated the strengths and weaknesses of the current statutory scheme, considering basic questions including the threshold question of what the modern purpose of spousal support. The subcommittee reached the conclusion that spousal support reform is necessary so that the system is more predictable for litigants and workable for the judiciary.

What is missing from the current statutory scheme is uniform guidance about how awards are calculated, which has led to disparities in spousal support orders. Litigants, with or without the benefit of counsel, have little basis to predict how different judges will rule on spousal support questions and are, in many instances, forced to go to trial to find out. FLAC believes that LD 2142 would allow divorcing spouses to make more informed choices and allow legal professionals better to guide their clients through one of the most difficult aspects of divorce cases.

FLAC sought to craft a proposal that balances the discretion of Maine judges when ordering spousal support with the need for predictability and consistency of awards in cases with similar facts. FLAC rejected the proposition that the entirety of 19-A MRS § 951-A should be

repealed and replaced. Instead, FLAC's proposal recognizes the value of current law that requires judges to consider many factors in granting or denying spousal support upon divorce. It is not that the process is fundamentally flawed; rather, it is incomplete. The Commission proposes to provide judges with a method to determine a presumptive numerical starting point, which must be cross-checked in every case against the statutory factors already established in 19-A § 951-A(5). Other existing rebuttable presumptions<sup>1</sup>—including those governing the initial entitlement to spousal support and the duration of an award—remain unchanged or are clarified to provide yet additional guidance to both litigants and the court.

LD 2142 reorganizes § 951-A and, notably, introduces a numerical calculation as a rebuttable presumption in proposed new subsection 2-B (identified as Section 4 in LD 2142). FLAC believes this reform will have a beneficial impact on spousal support practice by fostering greater predictability and consistency in awards, while also encouraging mediated settlements. FLAC has sought to minimize the risk that a presumptive calculation could lead to inequitable results by preserving the court's broad discretion to determine an award based on established statutory factors and case law precedent of the Maine Supreme Judicial Court.

### Discussion

LD 2142 will significantly improve the equity of spousal support awards for all litigants in divorce cases. Under current law, 19-A M.R.S. § 951-A(5) requires judges to consider a variety of factors before granting or denying a spousal support order. These factors are enumerated in § 951-A(5)(A–Q) and are helpful in determining whether the facts of a case justify an award, but they are silent regarding the actual amount of that award.

The current statute fails to provide a standard starting point for the analysis. Furthermore, the statute offers no guidance on how to perform a calculation; currently, the only available guidance stems from appellate decisions. Even then, the Maine Supreme Judicial Court tends to focus less on the methodology of the calculation and more on whether a trial judge abused their discretion. As a result, an order from 'Judge A' may differ considerably from an order from 'Judge B' based on similar facts. LD 2142 is designed to bring more consistency to the spousal support framework while maintaining the court's discretion to ensure that justice is served in every case.

FLAC's proposal, based on analysis of the law other states and feedback from legal professionals, reflects a measured approach to modernizing Maine's family law to better serve divorcing spouses and families. The guidance introduces a simple calculation procedure as a first step, making it more efficient for judges, attorneys, mediators, and parties. This should lead to faster resolution of cases.

LD 2142 proposes a numerical formula *as a starting point* for setting the amount of spousal support, if any. Proposed new subsection 2-B in § 951-A (identified as Section 4 in LD 2142) states as follows:

**There is a rebuttable presumption that the amount of any general support payments awarded pursuant to subsection 2, paragraph A-1 equals the difference in the parties' spousal support incomes multiplied by the durational factor, which is calculated by**

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<sup>1</sup> A rebuttal presumption is an assumption or inference of fact or law that a judge accepts unless someone rebuts it and establishes that it is not true or not applicable.

**multiplying the number of years of marriage by 0.015, but only to the extent that the resulting durational factor does not exceed 0.3.**

*See § 951-A(2-B) (identified as Section 4 in LD 2142).*

FLAC arrived at this proposed numerical calculation by studying the spousal support formula in Vermont,<sup>2</sup> then ultimately choosing a different path to better fit Maine. The proposed multipliers were developed by studying the spousal support guidelines of other jurisdictions, together with input from Maine stakeholders on current practice, including the range of awards that have been deemed acceptable by the Maine Supreme Judicial Court. This comparative analysis allowed the Commission to identify approaches aligned with Maine's experience and practice.

LD 2142 maintains judicial discretion that Maine judges must exercise in determining spousal support, while still providing a predictable baseline or starting point. The court's obligation to weigh the factors at 19-A § 951-A(5) remains intact. LD 2142 requires spousal support awards to be supported by written findings to ensure a high degree of transparency in how a judge applies that discretion. *See Subsection 2-D of § 951-A (identified as Section 6 in LD 2142).*

FLAC rejected the concept of a rigid formula, recognizing that it could fail to account for the unique and complex circumstances of many marriages. Spousal support often involves a range of nuanced factors—such as career sacrifices, health issues, and economic misconduct—that are difficult to capture in a simple calculation. A one-size-fits-all formula is particularly ill-suited for marriages involving significant wealth, self-employment, or unusual financial and tax-related arrangements. Furthermore, a standalone formula may not adequately address the specific rehabilitative needs of a spouse, which often serve as the primary purpose of an award.

FLAC is mindful that an analysis of a potential spousal support award has many complex aspects, including the impact of child support, along with the effect of federal and state taxes.<sup>3</sup> FLAC has reviewed variations of the guideline that would address each of these considerations and ensuring that both a child support obligation and a spousal support obligation are fully met. In divorce cases that involve minor children, FLAC recognizes that the obligor's ability to pay spousal support may be affected, if not eliminated completely. LD 2142 prioritizes the child's financial needs by requiring that any child support amount is calculated first, using the parents' gross incomes. Once determined, the child support is deducted from the payor's income for the purpose of calculating spousal support. The recipient's proportional share of the child support calculation is not included for purposes of the spousal support presumption.

FLAC's proposal is rooted in the principle that the child's welfare is paramount. It ensures that the child's needs, as determined by the child support guidelines, are fully met before any spousal support is awarded. This methodology generally results in a lower spousal support payment because the payor's income is reduced by the child support obligation before the spousal support calculation occurs. Though the obligor may have less remaining disposable income after

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<sup>2</sup> 15 V.S.A. § 752. In Vermont, the formula includes percentage ranges for spousal support, based on the difference between the two spouses' gross incomes. For a marriage of 5-10 years, the range of spousal support ordered is 12-29% of the difference between the two spouses' gross incomes; for a marriage of 10-15 years, the range is 16-33%; for a marriage of 15-20 years, the range is 20-37%; and, for a marriage of 20+ years, the range is 24-41% of the difference between the two spouses' gross incomes.

<sup>3</sup> One of the factors in existing law that a judge must consider is the "tax consequences of a spousal support award." § 951-A(5)(J).

both obligations are met, this model prioritizes the child's financial security. However, LD 2142 also gives a judge authority to consider if spousal support in addition to a child support obligation would create an unreasonable burden. In addition to the list of existing factors set forth in subsection 5 of § 951-A, FLAC proposes a new factor. The new factor P-1 would state as follows:

**P-1. Whether the spousal support award combined with a child support obligation would be inequitable or unjust.**

Subsection 5 of § 951-A (identified as Section 8 in LD 2142).

In other words, a judge would be required to consider this issue when determining spousal support. Further, to address potential inequities that may arise when a child support obligation terminates before the term of spousal support ends, LD 2142 authorizes the court to issue a secondary, adjusted spousal support award that takes effect upon the expiration of a child support obligation. See proposed new subsection 2-E of § 951-A (identified as Section 7 in LD 2142).

Instead of relying solely on a quantitative formula for spousal support in every situation, FLAC has attempted to strike a balance between bringing greater predictability and consistency to the determination of spousal support, yet preserving judicial discretion to weigh the facts of each case. Because LD 2142 embraces existing law that requires consideration of specific factors already set forth in current statute, plus an additional proposed factor, a judge maintains discretion to ignore the initial formula calculation if that would lead to an unfair and/or unjust result.

Conclusion

For these reasons, FLAC respectfully proposes LD 2142 as an important improvement to the effective administration of justice for divorcing spouses and families.

Dated: January 20, 2026

Respectfully submitted:  
Maine Family Law Advisory Commission (Majority Report)

Concurring:

Hon. John Wm. Martin, District Court Judge (Chair)  
Hon. Stephen Nelson, Superior Court Justice  
Hon. Steven Chandler, Family Law Magistrate  
Hon. Scott Houde, Probate Court Judge  
Diane E. Kenty, Esq., Maine Judicial Branch, CADRES  
Debby Willis, Assistant Attorney General, designee for the Department of Health and Human Services  
Christopher McLaughlin, LCSW, Public Member  
Edward S. David, Esq. Family Section, Maine State Bar Association  
Timothy E. Robbins, Esq., Public Member  
Maris Hubbard, Esq., Attorney, Pine Tree Legal Assistance

### Minority Report

As a family lawyer and a FLAC representative from the Maine State Bar Association's Family Law Section, I do not support LD 2142. The presumptive spousal support formula proposed in this legislation fails to adequately account for the combined impact of child support and taxation on each spouse's actual needs and ability to pay leading to unaffordable spousal support obligations, particularly in cases involving child support.

The proposal deducts guideline child support from each party's gross income before applying the spousal support formula. As a result, the calculation does not accurately reflect the actual dollars available in each household. It also fails to account for the tax consequence, specifically, the tax-free nature of support received and the tax liability of the payor. This skews the outcome by overstating the payor's available income while understating the payee's.

These structural flaws are likely to increase, rather than reduce, litigation. The statute's reliance on rebuttable presumptions will invite factual disputes, encourage burdensome discovery, and increase appellate challenges. Courts can also expect an uptick in enforcement and contempt proceedings post-judgment, particularly where the presumptive support is financially unsustainable for the payor.

While greater consistency in spousal support awards is a valid objective, this rigid, one-size-fits-all formula is not the solution. The existing statute already requires an individualized, factor-based analysis that has allowed the vast majority of family cases to be resolved without trial. A formula may be beneficial in theory, but unless and until it meaningfully incorporates the impact of child support and taxes on both households, it risks producing inequitable and unworkable results.

Respectfully submitted,

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